

IN THE DRAWINGS:

New FIG. 7 has been added to illustrate "a mixing bag whose opposite side edges each comprise upper opening parts and lower sealed parts" as recited in claim 1, for example.

Reconsideration is respectfully requested.

REMARKS

In the Office Action mailed February 28, 2007, claims 1, 2 and 5-16 were rejected under nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,935,224; the drawings were objected to; and claims 1, 2 and 5-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (KR 2002-0057012) in view of Hedenberg '009 (U.S. Patent No. 5,947,009). The foregoing objections and rejections are respectfully requested.

None of the claims have been amended.

New FIG. 7 has been added based upon the Examiner's comments at pages 2 and 3 of the Office Action.

Claims 1, 2 and 5-16 are pending and under consideration.

Regarding the double patenting rejection:

As previously mentioned, the Applicants respectfully request that a submission of a terminal disclaimer be held in abeyance until the § 103 rejections of the claims have been overcome.

Regarding the drawing objections:

New FIG. 7 has been added based upon the Examiner's comments at pages 2 and 3 of the Office Action. Therefore, it is respectfully submitted that the objection to the drawings is overcome.

Regarding the 103 rejections:

Neither of the foregoing references relied upon, individually or combined, discuss or even suggest "a bread maker comprising: upper and lower kneading drums holding upper and lower parts of a mixing bag whose opposite side edges each comprise upper opening parts and lower sealed parts, respectively; a driver rotating the kneading drums in clockwise and counterclockwise directions; a baking tray which is placed between the upper and lower kneading drums and formed with a slit; and an oven compartment formed between the baking tray and the upper kneading drum; and a controller which controls a number of rotations of the upper kneading drum by controlling the driver, wherein the number of rotations of the upper kneading drum is based upon a distance between the upper and lower kneading drums, and the

distance is such that exposure of the upper opening parts of the opposite side edges of mixing bag to an inside of the oven compartment is prevented during a kneading process during a downward movement of the mixing bag,” as recited in claim 1, for example. Claim 8 recites features somewhat similar to those of amended claim 1. Lee fails to discuss the features as recited in amended claims 1 and 8, for example.

As previously mentioned, Lee discusses a baking machine having upper and lower kneading drums, which prevents a sealing pack from being separated from the kneading drums by controlling the rotating position of the kneading drums (see page 18 of the English Translation of Lee). As shown in FIG. 6 of Lee, the opposite side edges of the sealing pack 7 do not include “upper opening parts and lower sealed parts” as recited in amended claim 1, for example. Lee discusses a pair of kneading latch members 17 that prevent materials being kneaded in the sealing pack 7 from being separated from the upper area of a baking tray (see page 9 of the English Translation). In Lee, a cutter merely cuts the sealing pack after the sealing pack is kneaded and the kneaded material is left in the baking barrel of the baking machine (see page 4 of the English Translation of Lee). Further, Lee fails to discuss “a controller which controls a number of rotations of the upper kneading drum by controlling the driver, wherein the number of rotations of the upper kneading drum is based upon a distance between the upper and lower kneading drums, and the distance is such that exposure of the upper opening parts of the opposite side edges of mixing bag to an inside of the oven compartment is prevented during a kneading process during a downward movement of the mixing bag,” as also recited in amended claim 1, for example.

Further, at page 3 of the Office Action, the Examiner asserts that Hedenberg '009 discusses “a mixing bag whose opposite side edges each comprise upper opening parts and lower sealed parts” as recited in claim 1, for example. The Applicants respectfully disagree with the Examiner.

In contrast, Hedenberg '009 discusses a baking apparatus having a mix bag therein (see Abstract). The mix bag includes two upper edges 52 and 54 and one bottom edge portion 50, which bottom edge portion is permanently sealed as are the longitudinal edges 48 running between the upper and the bottom edges (see column 4, lines 66-67 – column 5, line 7; and FIG. 6, for example). The seal in the bottom edge forms a reinforced bottom edge portion 50 and the top edge portions 52 and 54 are reinforced as shown in FIG. 7, for example. Therefore, the mix bag of Hedenberg '009 fails to include “opposite side edges each comprise upper opening parts and lower sealed parts,” as recited in claim 1, for example.

Further, The mix bag of Hedenberg '009 includes a burstable seal 46 which defines two compartments in the mix bag, the lower compartment between seals 46 and 47 being hermetically sealed and containing dry ingredients, and above seal 46 being openable so that the user can place water therein (see column 5, lines 16-18; and FIG. 6, for example). Further, the baking apparatus is actuated so as to slightly lower the mix bag so that an upper reinforced portion 54 can be placed in a slit on the upper roll 14 to permit access to the upper portion of the mix bag which is then filled with water. When beginning the baking process, the baking apparatus completes a reciprocating motion to force the water from the upper portion of the mix bag against the burstable seal 46 to hydrate the dry ingredients (see column 5, lines 27-50). Like Lee, Hedenberg '009 also fails to discuss "a controller which controls a number of rotations of the upper kneading drum by controlling the driver, wherein the number of rotations of the upper kneading drum is based upon a distance between the upper and lower kneading drums, and the distance is such that exposure of the upper opening parts of the opposite side edges of the mixing bag to an inside of the oven compartment is prevented during a kneading process during a downward movement of the mixing bag," as recited in claim 1, for example.

At page 4 of the Office Action, the Examiner asserts that it would be an obvious operational choice to determine the number of rotations of the kneading drums as well as how it is calculated. However, the Applicants respectfully traverse the Examiner's assertion of obviousness and request that the Examiner provide a reference to support this assertion or withdraw it.

Based upon the comments above, the combination of Lee and Hedenberg '009 fails to establish a *prima facie* case of obviousness over the present invention. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or discuss all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See M.P.E.P. § 2142.

Thus, withdrawal of the objections and rejections is respectfully requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

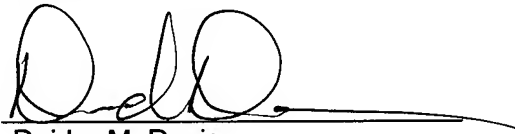
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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